



KENTUCKY STATE BOARD PHYSICAL THERAPY NEWSLETTER

<http://kbpt.state.ky.us>

FALL 2002

BOARD ADDRESS

9110 Leesgate Road, Suite 6
Louisville, KY 40222-5159
(502) 327-8497 phone
(502) 423-0934 FAX

BOARD MEMBERS

DEBRA S. TURNER, PT, Chair
Dry Ridge, KY
dturnerpt@aol.com

STEFANIE N. LAWHORN, PT
Shepherdsville, KY
lawhornpt@msn.com

ROBERT W. CATURANO, PT
Paducah, KY
rcat@biokinetix.com

SANDRA S. PAYNE, PT
Leitchfield, KY
sandy@leitchfieldvet.com

TERRY L. RANDALL, PT
Somerset, KY
RandallTRC@charterbn.com

TINA L. VOLZ, PT
Louisville, KY
tvolz@bhsi.com

STEPHEN N. LACY
Frankfort, KY
sl0629@aol.com

OFFICE STAFF

BECKY KLUSCH HUGHES
Executive Director
becky.hughes@mail.state.ky.us

DONNA SIMS
Licensure Coordinator
donna.sims@mail.state.ky.us

BOARD COUNSEL

MARK BRENGELMAN, JD, MA
Assistant Attorney General
Mark.Brengelman@law.state.ky.us

LICENSURE RENEWAL

Renewals will be sent out to all active physical therapists and physical therapist's assistants the last week of December, 2002. There will be no HIV/Aids requirement for this renewal period. Be sure we have your current home address!

ARE YOU IN DEFAULT OF A STUDENT LOAN? If so, be sure to make a satisfactory repayment agreement with KHEAA before renewing your license or certificate. Per House Bill 296, a new section of KRS 164.740 was created for licensing agencies in the State of Kentucky to refuse licensing or renewing a license to those in default of their obligation until the licensee has entered a satisfactory repayment agreement on their defaulted loan.

REPORTING MALPRACTICE CLAIMS

The Department of Insurance has asked that all health related licensure boards remind licensees and their insurers of the requirements of KRS 304.40-310(1) which states:

All malpractice claims settled or adjudicated to final judgment against a health care provider shall be reported to the commissioner of insurance by the malpractice insurer of the health care provider or the health care provider if self-insured, within 60 days following final settlement or disposition of the claim. The report to the commissioner shall recite the following:

- (a) Name and address of the health care provider involved;
- (b) Name and address of claimant;
- (c) Nature of claim;
- (d) Damages asserted and alleged injury;
- (e) The amount of any settlement or judgment.

Questions should be directed to Christy Campbell, Property & Casualty Division at (502) 564-6046.

PACE

Practitioners Alternative Care Effort

Our Impaired Physical Therapy Practitioners Committee needs your help! This committee was established to promote the early identification, intervention, treatment and rehabilitation of Physical Therapists and Physical Therapist's Assistants who may have an impairment by reason of illness, alcohol or drug abuse. The PACE program is designed to encourage impaired health-care professionals to seek a recovery program before their impairment harms a patient or possibly causes career damage through Board disciplinary action. Please refer to 201 KAR 22:150 for more information.

A private counseling and rehabilitation service will administer the program. Participants will have the benefit of obtaining **confidential** help, except when participation has been by the Board.

Volunteers throughout the State are still needed to assist the Committee with this effort. If you have been through or are nearly finished with a recovery program, if you have experience in helping a loved one with a chemical dependency problem, or if you have extensive knowledge in the area and would really like to get involved, we need to hear from you. Please contact the Committee Chairman, Steve Lacy (Public Member of the Board) at his home (502)848-0439, or E-mail, sl0629@aol.com. Your name will not be given to the full Board. The Committee will meet every other month to discuss ways to help your peers and possibly mentor those in need.

DISCIPLINARY ACTIONS February 2002-September 2002



The following is a summary of disciplinary actions taken by the Board since the last Newsletter was published. It is intended as a summary for informational purposes only. All information is believed to be accurate. However, complete terms of each disciplinary action are contained in the Board's records. Monetary amounts paid to the Board generally represent the investigative costs and not the severity of the violation(s).

James Richard Roe PT – 003294

Date: 03/22/2002

Alleged Violations: KRS 327.070(2)(a), (b), and (k)

Final Action: Admits to violating KRS 327.070(2)(k) refusing an Order of the Board to submit to a urinalysis and admits to a DUI conviction in 2001.

Settlement Agreement: Probation for 6 months, chemical/alcohol dependency assessment, undergo further chemical dependency/alcohol counseling, random urinalysis examinations and pay the sum of \$500 to cover administrative/investigative costs.

Samuel M. Brown PT-000533

Date: 03/28/2002

Alleged Violations: KRS 327.020(3), KRS 327.070(2), (9) (effective until July 13, 2000)

Final Action: Admits to violating KRS 327.020(3) by allowing a person that failed the NPTE and not licensed by the Board to use P.T. behind their name; KRS 327.070(9) not preparing a written plan as mandated by regulation for the training and supervision of supportive personnel from August 30, 1999 to February 7, 2000.

Settlement Agreement: 1 year Probation, pay the sum of \$3,700 for investigative/mediation costs, \$500 Administrative Fine and passing the Jurisprudence Exam.

Cathy Whitaker PT-003854

Date: 03/28/2002

Alleged Violations: KRS 327.020(1) and (3)

Final Action: Admits to violating KRS 327.020(3) by using in connection with the Respondent's name the words "physical therapy," "physical therapist," and "P.T." while not holding a license or temporary license from the Board from approximately August 30, 1999, to February 7, 2000, after having failed the NPTE and before having passed the NPTE and being licensed by the Board.

Settlement Agreement: 1 year Probation with quarterly monitoring, pay the sum of \$1,500 for investigative/mediation costs and passing the Jurisprudence Exam.

Marvin M. St. John PT-000793

Date: 03/28/2002

Alleged Violations: KRS 327.070(2)(k) and 201 KAR 22:053 § 6

Final Action: Admits to violating KRS 327.070(2)(k) by failing to obey an administrative regulation of the Board by violating 201 KAR 22:053 § 6 for various documentation violations.

Settlement Agreement: 1 year Probation with quarterly monitoring, pay the sum of \$500 for investigative costs, completing a six hour documentation course approved by the Board and passing the Jurisprudence Exam.

Lauren M. Kuhbander Thomas, PT-003383

Date: 05/23/2002

Alleged Violations: KRS 327.070(2)(b), (h), (k), and 201 KAR 22:053 §6

Final Action: Admits to violating KRS 327.070(2)(k) by violating 201 KAR 22:053 § 6 by failing to meet the standards for documentation required in the physical therapy record for pediatric patients.

Settlement Agreement: 2 year probation with six monthly monitoring visits in the first six months, and four monitoring visits in the following 18 months, pay the sum of \$2,575 for investigative costs, completing a six hour pediatric treatment course approved by the Board and passing the Jurisprudence Exam.

James R. Stacy, PT-003873

Date: 07/29/2002

Alleged Violations: KRS 327.070(2)(a) and (k)

Final Action: Admits to violating KRS 327.070(2)(a) and (k) for which the Board may take disciplinary action for engaging in the abusive use of a controlled substance and for failing to obey a lawful Order of the Board.

Settlement Agreement: Temporary Suspension and Chemical Dependency Diversion for 180 days, 5 year probation with monitoring, and active participation in appropriate diversion program. License reinstated with conditions.

Michael M. Goodpaster, PT-004113

Date: 09/19/2002

Alleged Violation: KRS 327.070(2)(a)

Final Action: Admits to violating KRS 327.070(2)(a) for which the Board may take disciplinary action for engaging in the abusive use of a controlled substance.

Settlement Agreement: 2 year probation with monitoring, administrative fine of \$300.00 and the sum of \$200.00 for investigative costs.

Other Legal Actions January 2002 through September 30, 2002

The following is a list of violations of KRS 327.020(3) *“It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives to use in connection with his or its name or business activity the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," the letters "P.T.," "L.P.T." or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied or to bill for physical therapy unless such physical therapy is provided by or under the supervision of a physical therapist licensed and practicing in accordance with this chapter.”*

Brian Spencer, D.C., Spencer & Masucci Chiropractic Office, advertising “physical therapist” in an advertisement as a chiropractor.

Margaret Masucci, D.C., Spencer & Masucci Chiropractic Office, advertising “physical therapist” in an advertisement as a chiropractor.

Bing Crosby, D.C., Crosby Chiropractic Office, - Advertising physical therapy in the Yellow Pages as a chiropractor.

Todd Wolter, D.C., Crosby Chiropractic Office, - Advertising physical therapy in the Yellow Pages as a chiropractor.

Scott Tincher - using M.P.T. after his name on business card when not licensed as a physical therapist.

Tony J. Perez, M.D., Paradigm Medical Rehab – Office brochure offering physical therapy as a physician.

Miquel A. Watley, D.C., Paradigm Medical Rehab – Office brochure offering physical therapy as a chiropractor.

Klaude Kocan, D.C., Lifestyle Resumption, - Using “physical therapy” in newspaper advertisement as a chiropractor.

There is No Free Lunch

The Board wants to remind physical therapists of one of our regulations that may be misunderstood as to its applications to marketing and business practices of the physical therapist. **201 KAR 22:053 Section 3 (7)** mandates as follows:

When engaged in the practice of physical therapy, a physical therapist shall:

Disclose in writing to each patient any financial interest or compensation or other value to be received by the referral source:

(A) For services provided by the physical therapist;

(B) For equipment rental or purchase; and

(C) For other services the physical therapist might recommend for the patient.

This is a regulation about what a physical therapist may give. Many physical therapists may interpret this as allowing certain types of gifts or favors to be given as a way to say thank you to referral sources – such as physicians, chiropractors, and even other physical therapists. The regulation governs “any financial interest or compensation or other value” which a physical therapist gives to “the referral source” – such as physicians, chiropractors, and even other physical therapists. The regulation does not prohibit a physical therapist from giving anything of value to a referral source, but simply mandates that the physical therapist disclose to the patient “in writing” the “financial interest or compensation or other value to be received” by the referral source from the physical therapist.

The Board interprets this to include, among other things, that the physical therapist must disclose in writing to the patient: buying lunch for a physician’s office when the source of the lunch is the physical therapist; giving gifts to a chiropractor’s office when the source of the gift is the physical therapist; providing free physical therapy services or massage therapy benefits to another physical therapy office. These are “financial interests, compensation, or other value” which the referring source receives. When the physical therapist provides such things to another health care provider, then the Board deems them to be intended to generate referrals, even if merely part of a general marketing plan of the physical therapist.

Another opinion on this topic, but which does not have the force of law in Kentucky, is found in Principle 5 of the APTA Guide for professional conduct which contains a section on gift giving and receiving:

A. Physical therapists shall not accept nor offer gifts or other considerations with obligatory conditions attached.

B. Physical therapists shall not accept nor offer gifts or other considerations that affect or give an objective appearance of affecting their professional judgment.

The Board looks to the APTA provisions for guidance. Under Principle 5, the Board deems any marketing plan, or any gift giving where the physical therapist is the giver, to be an implied “obligatory condition”, that is, one seeking the business and referrals of the recipient of the gift. Clearly, all Physical Therapists and Physical Therapist’s Assistants must carefully design and monitor their marketing efforts to ensure patient disclosure compliance with the KRS 327. Our patients have the right to know if the physical therapist is giving anything of value to our referral and even potential referral sources.

???ARE YOU IN VIOLATION OF THE PT LAW???
CHANGE OF ADDRESS

Any changes in name and both home and physical therapy work addresses and phone numbers **must** be sent to the Board within 30 days of change according to **KRS 337.040(6)**.

Name _____ License # _____
Address _____
City, State, Zip _____ County _____
Phone _(____)_____ E-Mail Address _____

Primary Work Facility

Name _____
Address _____
City, State, Zip _____ County _____
Phone _(____)_____ Full/Part Time _____
PT Supervisor's Name _____ License # _____

Please mail or fax the above changes to our office.

***KY State Board of Physical Therapy
9110 Leesgate Road, Suite 6
Louisville, KY 40222-5159***

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